

IN THE HIGH COURT OF PUNJAB AND HARYANA, CHANDIGARH.

F.A.O. NO. 391 of 2005
Date of Decision: 17.11.2006

Kulwinder Singh and another ..Appellants

Versus

Karamjit Kaur and others ..Respondents.

**CORAM:- HON'BLE MR. JUSTICE VINEY MITTAL
HON'BLE MR. JUSTICE H.S.BHALLA**

Present:- Mr. Nitin Thatai, Advocate
For Mr. V.M.Gupta, Advocate
For the appellants.

H.S.BHALLA, J.

This appeal is directed against the award dated December 7, 2004 passed by Motor Accident Claims Tribunal, Mansa (hereinafter referred to as "the Tribunal") for setting aside the award qua the appellants vide which they were held responsible to pay compensation to the legal heirs of the deceased.

The lights of the house of the respondent-claimants were switched off when Parminder Singh, the only bread earner of the family, and his minor son Rabpreet Singh, who were on a scooter, met with an accident and died at the spot, which occurred with a jeep bearing registration No.MLK-5287, being driven by Kulwinder Singh in a rash and negligent manner.

It has been averred in the claim petition that on December 2,2003, Parminder Singh (deceased) along with his minor son Rabpreet

Singh (deceased), on a scooter being driven by him, was returning to his house. They were followed by Jagga Singh and Surjit Singh on a separate scooter, which was being driven by Jagga Singh. When they reached near the premises of Shiv Shankar Property Dealer, in the area of Bhikhi, a jeep bearing registration No. MLK-5287, which was being driven by Kulwinder Singh in a rash and negligent manner, struck against the scooter, resulting in the deaths of Parminder Singh and his minor son Rabpreet Singh on the spot. The claim petition is being filed by the respondent-claimants, who are parents and widow of the deceased being dependents upon the deceased.

The learned Tribunal, after going through the oral as well as documentary evidence, available on the record, allowed the claim petition filed by the claimants vide its award dated December 7,2004, the operative part of which runs as under:-

“ In view of my findings on the aforesaid issues, this petition is accepted with costs. Consequently, compensation to the tune of Rs.2,75,000/- is awarded in favour of the petitioners and against respondents No.1 and 2, holding both of them jointly and severally liable to pay the same within two months from today, failing which the petitioners would be entitled to recover the same along with interest at the rate of 5% per annum from the date of petition till realization. On deposit/realization, amount of compensation would be apportioned amongst the petitioners as under:-

Karamjit Kaur	Rs.2,25,000/-
Paramjit Kaur	Rs. 30,000/-
Bant Singh	Rs. 20,000/-

Counsel fee is assessed at Rs.500/-. Memo of costs be prepared and file be consigned.”

We have heard the learned counsel for the appellants and perused the paper-book.

Justice ordinarily demands that every case must reach its destination, not interrupted enroute. We have also gone through the award passed by the learned Tribunal and find that it is a well reasoned, well founded and is based on appreciation of evidence. The learned counsel appearing for the appellants (driver and owner of the offending jeep) has not been able to point out any glaring defect in the procedure adopted by the learned Tribunal, nor any manifest error on the point of law could be pointed out, which resulted in flagrant miscarriage of justice. Moreover, in cases of accident claims, economic object to be achieved by the statutory provision should be the paramount consideration with the learned Tribunal. Learned counsel appearing for the appellants has vehemently contended that the learned Tribunal has committed a grave error in holding the driver and owner of the jeep and deceased Parminder Singh contributory negligent to the extent of 90:10. Learned counsel has further contended that the aforesaid apportionment with regard to negligence is wholly unjustified and illegal, inasmuch as, the driver of the scooter was negligent in driving his vehicle. This contention of the learned counsel is liable to be noticed only for the sake of rejection in view of the comprehensive reasoning recorded by the learned Tribunal under issue No.1 while passing its award dated December 7,2004 wherein the learned Tribunal held the driver and owner of the offending jeep liable for causing the death of Parminder Singh and his minor son on the spot and at the same time the deceased Parminder Singh was also held negligent in driving his scooter by keeping his son in between

his legs in front of him on the scooter. In our considered view, the learned Tribunal has rightly held in making both the driver and owner of the offending jeep along with deceased Parminder Singh contributory negligent , to the extent of 90:10 in causing the accident resulting in the deaths of Parminder Singh and his minor son Rabpreet Singh, aged 6 years, closing the lifeline for ever, of the family of the respondent-claimants. We do not find any infirmity in the findings recorded by the learned tribunal under issue No.1, with regard to apportionment of negligence in the said ratio as also holding the driver and owner of the offending jeep for causing accident with the scooter and also in making the amount of compensation to be paid by the appellants to the legal heirs of the deceased since the offending vehicle was not insured with the Insurance Company, which are based on ocular as well as documentary evidence. Accordingly, the findings recorded by the learned Tribunal are hereby affirmed and as such, no interference is called for in the award passed by the learned tribunal since there is nothing to be set right therein.

In view of the above discussion, we find no illegality and infirmity in the award dated December 7,2004 passed by the learned Tribunal. Accordingly, appeal filed by the appellants is dismissed in limine.

(H.S.BHALLA)

JUDGE

November 17,2006

vk

(VINEY MITTAL)

JUDGE